DEC 15 2010

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Dear (b)(6)

This is to respond to your recent November 30, 2010, complaint form to this office in which you appear to believe that the Marion County School District (District) violated rights afforded you under the Family Educational Rights and Privacy Act (FERPA). This office administers FERPA, which addresses issues pertaining to education records.

FERPA is a Federal law that gives parents the right to have access to their child's education records, the right to seek to have the records amended, and the right to have some control over the disclosure of information from the records. The term "education records" is defined as those records that are directly related to a student and which are maintained by an educational agency or institution or by a party acting for the agency or institution. Enclosed is a copy of a FERPA fact sheet.

Under FERPA, a school must provide a parent with an opportunity to inspect and review his or her child's education records within 45 days of the receipt of a request. A school is required to provide a parent with copies of education records or make other arrangements when a failure to do so would effectively prevent the parent from obtaining access to the education records. Generally, a case in point would be a situation in which the parent does not live within commuting distance of the school. Based on the information you provided to this office, the District is required to provide you with access, although it is permitted to provide you with copies or make other arrangements for you to inspect and review your child's education records.

FERPA generally prohibits a school from disclosing a student's education records to third parties without parental consent. One of the exceptions to FERPA's prior written consent requirement allows "school officials" within the agency or institution to obtain access to education records provided the educational agency or institution has determined that they have "legitimate educational interest" in the information. A school official generally has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility. This office has interpreted the term broadly to include such positions as a teacher; school administrator; counselor; attorney; accountant; human resources professional; information systems specialist; and support or clerical personnel.

This office has responded to you by letters dated July 15, and November 4, 2010, and returned certain correspondence in order that you may use it to prepare a future response. As explained in our letters, we noted that it is the complainant's responsibility to clearly and succinctly state allegations of FERPA violations and provide only relevant documentation. The allegations that you raised in your most recent letter are not entirely clear. However, in an attempt to be responsive to your concerns, we will address those issues that we are able to identify in your complaint as being related to alleged violations of FERPA. In your recent letter you appear to assert though several "exhibits" that the District violated FERPA as follows:

a. Exhibit A: It appears that you are stating that on July 14, 2009, you made an open records request for a copy of all of your son's "medical releases" to Ms. Beverly Morris who is the District's legal counsel. You further state that Ms. Morris responded to you in a September 2, 2010, letter which describes the District's procedure which you are required to follow in order to obtain access to your child's education records. You appear to believe these actions deny your right of access under FERPA.

b. Exhibit B: It appears that you are stating that you made a July 14, 2009, request to Ms. Morris of the District to provide you with a copy of "your written release which grants permission to release your child's confidential and medical records that allow access to parents, non-current teachers, non-certified professionals, and non-current principals." It appears you believe that your rights under FERPA were violated by the District when Ms. Morris responded in her July 30, 2009, response.

c. Exhibit C and E: In your exhibit C, you appear to believe that Mr. James Yancey, superintendent of the District, violated FERPA when he received an April 22, 2008, email from Ms. Mary Shawya who is a third party. It appears that you believe this email is part of your child's education records and confirms that Mr. Yancey improperly disclosed information from your child's education records to Ms. Shawya. You provided this office with a copy of that email to support your allegation. In exhibit E, it appears that you believe that Mr. Yancey disclosed a copy of Ms. Shawya's email to third parties without your prior written consent as required by FERPA.

In response to your concern identified in exhibit A above, it appears that you are concerned that the District's access policy denies your right of access to your son's education records under FERPA. You provided this office with a copy of the District's policy. Generally, FERPA does not prohibit a school from clarifying the conditions for which a parent is permitted to inspect and review his or her child's education records. In this instance, the District's access policy does not deny you access, but addresses the conditions for which any access request from you would be facilitated. Accordingly, it does not appear that the District has a policy or practice that has the effect of preventing you access to your education records in violation of FERPA. In the future, should you wish to inspect and review your education records, you should make appropriate arrangements with the District as set forth in its access policy.

You also appear to allege in exhibits A and B that the District denied you access to your child's education records when it did not provide you with copies of those records. As discussed above, the District is generally only required to provide you with access, although it is permitted to provide you with copies or make other arrangements. Accordingly, no basis exists for this office to investigate your statements in which you appear to allege that the District denied you copies to your child's education records.

Based on your exhibits C and E, it appears you allege Mr. Yancey disclosed information from your child's education records to a third party without your prior consent. As discussed above, education records are those records directly related to a student and which are maintained by an educational agency or institution. After careful review, we do not believe that the April 22, 2008, email forwarded by Ms. Shawya is part of your child's education records because it is not directly related to your child. Notwithstanding the fact that it does not appear to be part of your child's education records, it also does not appear that the email was forwarded to anyone other than school officials as permitted under FERPA and discussed above.

This Office investigates those timely complaints that contain specific allegations of fact giving reasonable cause to believe that a school has failed to comply with FERPA. A timely complaint is defined as one that is submitted to this office within 180 days of the date that the complainant knew or reasonably should have known of the alleged failure to comply with FERPA. Allegations that the District violated FERPA prior to September 2, 2009, are untimely based on the date this office received your original March 1, 2010, letter to this office. Accordingly, this office will not take any further action in response to statements which relate to your exhibits A – C and E.

Your statements included in your exhibits D, F, and G, regarding legal and licensing allegations you made against a third party who may or may not be a school official, professional conduct of school employees, and your request for District services, respectively, are not addressed by FERPA. You may wish to contact the appropriate local or State agency to further address these issues.

I trust the above information is helpful in explaining the scope and limitations of FERPA as it relates to your concerns.

Sincerely,

Ellen Campbell
Acting Director
Family Policy Compliance Office

Enclosure